UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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WILLIAM WILLIAMS,

Plaintiff,

- against –

THE CITY OF NEW YORK, POLICE OFFICER JOHN P. SYLVESTRE [Shield No. 11909] and POLICE OFFICERS JOHN DOES 1-3 in their individual and official capacities as Police Officers employed by the City of New York,

Defendants.

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AMENDED COMPLAINT

PLAINTIFF DEMANDS TRIAL BY JURY

CV 14-5391 (SLT) (RER)

Plaintiff, by his attorney, ANDREW F. PLASSE, as and for his Amended Complaint, hereby alleges and shows to the Court the following:

1. Plaintiff William Williams hereby brings this action against the City of New York, Police Officer John P. Sylvestre and Police Officers John Does 1-3 in their individual and official capacities as Police Officers employed by the City of New York for damages arising out of unconstitutional policies and actions arising out of an alleged excessive use of force and false arrest incident which occurred on June 17, 2014.

2. Plaintiff brings this action against the defendants to redress the deprivation of rights secured to him by the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution, the parallel rights of the New York State Constitution, and 42 U.S.C Section 1983.

3. At the time of the incident herein, plaintiff was a resident of 579 Chester Street, Brooklyn, NY 11212. Each defendant is a citizen of the State of New York. The

amount in controversy exceeds the sum of Fifty Thousand [$75,000.00] Dollars, exclusive of interest and costs.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 1331, 1332, and 1343(a) (3) and 42 U.S.C. Section 1983.

5. Venue is proper in this District pursuant to 28 U.S.C. Section 1381.

6. At all times hereinafter mentioned the defendants Police Officer John P. Sylvestre and Police Officers John Does 1-3 were employed as New York City Police Officers and acted under color of state law or a statute, ordinance, regulation or custom. The designation "John Does 1-3" indicates that the full names of three Police Officers are unknown. Plaintiff intends to discover the identities and full names of each Police Officer.

7. Upon information and belief, defendant City of New York was and now is, a municipal corporation, existing under and incorporated under the laws of the State of New York, with its principal place of business located at the Municipal Building, One Centre Street, New York, NY 10007.

8. That upon information and belief, the City of New York owned, operated, controlled and maintained the New York City Department of Corrections by charter, or by law, under provisions of the State and/or City of New York

9. That heretofore, the Plaintiff caused a Notice of claim in writing, sworn to by and on behalf of the Plaintiff, to be duly served upon the defendant City of New York by delivering a copy thereof to the Office of the Corporation Counsel of the City of New York, which said Notice of claim set forth the name and post office address of the plaintiff, the nature of the claim, the time when, the place where and the manner in which

said claim arose and the items of damages or injuries claimed to have been sustained so far as then practicable; that the Plaintiff was noticed and duly appeared at a 50 h hearing, and that this action is being commenced within one year after the happening of the event upon which this claim is based.

STATEMENT OF FACTS

10. On June 17, 2014, at approximately 2:40 p.m., the Plaintiff was injured in a Motor Vehicle Accident occurring at the intersection of Elton Street and Atlantic Ave., Brooklyn, NY.

11. At the aforesaid date and place, plaintiff was thrown off his Motorcycle as a result of the Motor Vehicle Accident with a van.

12. Plaintiff was immobile after the accident with the van and remained at the scene.

13. Police Officer John P. Sylvestre and Police Officers John Does 1-3 responded to the scene along with other Police Officers.

14. Police Officer John P. Sylvestre and Police Officers John Does 1-3 in concerted action, placed handcuffs on the plaintiff, behind his back, while he was lying on the sidewalk and street

15. Police Officer John P. Sylvestre and Police Officers John Does 1-3 lifted the Plaintiff, and placed him on a stretcher.

16. Police Officer John P. Sylvestre and Police Officers John Does 1-3 lifted the Plaintiff on the stretcher and put him in a neck brace.

17. Police Officer John P. Sylvestre and Police Officers John Does 1-3 then lifted the plaintiff off the stretcher, and turned him over, so tht he was face down on the stretcher on the pavement.

18. Police Officer John P. Sylvestre then assaulted and battered the plaintiff, who was handcuffed, in a neck brace, and face down, by punching him hard on the right side of his face, causing the plaintiff's left side of his head to strike the pavement hard, thereby fracturing his skull and jaw and putting him into a coma.

19. Police Officers John Does 1-3 acted in concert with Police Officer John P. Sylvestre and attempted to cover up the use of excessive force by failing to report the incident.

PLAINTIFF'S CLAIM.

20. Upon information and belief, Police Officer John P. Sylvestre and Police Officers John Does 1-3, acted with actual malice toward the plaintiff and with willful and wanton indifference and deliberate disregard for the statutory and constitutional rights of the plaintiff.

21. Upon information and belief, the actions taken as aforesaid by Police Officer John P. Sylvestre and Police Officers John Does 1-3 constituted excessive use of force, and deprivation of liberty without due process of law.

22. Upon information and belief, the conduct of defendants Police Officer John P. Sylvestre and Police Officers John Does 1-3, violated the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS POLICE OFFICER JOHN P. SYLVESTRE AND POLICE OFFICERS JOHN DOES 1-3, JOINTLY AND SEVERALLY, PLAINTIFF RESTATES AND REALLEGES

EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-22" AND FURTHER ALLEGES AS FOLLOWS:

23. Upon information and belief, the actions taken as aforesaid by Police Officer John P. Sylvestre and Police Officers John Does 1-3, constituted excessive force, in violation of the Fourth and Eighth Amendments and a deprivation of liberty without due process of law under the Fifth and Fourteenth Amendments.

24. Upon information and belief, Police Officer John P. Sylvestre and Police Officers John Does 1-3, acted with actual malice toward the Plaintiff and with willful and wanton indifference and deliberate disregard for the statutory and constitutional rights of the plaintiff.

25. Solely by reason of the above, the plaintiff sustained severe personal injuries, was rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has been and continues to be unable to pursue the usual duties with the same degree of efficiency as prior to this accident, all to plaintiff's great damage.

26. That by virtue of the foregoing, Plaintiff has been damaged in the amount of FIFTY MILLION [$50,000,000.00] DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS POLICE OFFICER JOHN P. SYLVESTRE AND POLICE OFFICERS JOHN DOES 1-3, JOINTLY AND SEVERALLY, PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-22" AND FURTHER ALLEGES AS FOLLOWS:

27. Upon information and belief, the actions taken as aforesaid by Police Officer John P. Sylvestre and Police Officers John Does 1-3, constituted an assault and battery.

28. Solely by reason of the above, the plaintiff sustained severe personal injuries, was rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and plaintiff has been and continues to be unable to pursue the usual duties with the same degree of efficiency as prior to this accident, all to plaintiff's great damage.

29. That by virtue of the foregoing, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT CITY OF NEW YORK, PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-22" AND FURTHER ALLEGES AS FOLLOWS:

30. Upon information and belief, the actions taken as aforesaid by Police Officer John P. Sylvestre and Police Officers John Does 1-3, constituted excessive force, and deprivation of liberty without due process of law.

31. Upon information and belief, at all times pertinent hereto, New York City encouraged, permitted and tolerated a pattern and practice of excessive force, denial of prompt medical treatment, and deprivations of liberty without due process of law by Police Officers of the City of New York.

32. Upon information and belief, the City of New York has a policy, express or implied, to permit and encourage its Police Officers to use excessive force on civilians, and that this policy has been indoctrinated into the New York Police Department so that Officers in the course of their duty are likely to use excessive force upon civilians, including civilians who are handcuffed and injured.

33. Upon information and belief, the City of New York has furthered and implemented this policy, by maintaining a system of review of Police Officer conduct which is so untimely and cursory as to be ineffective, and which permits and tolerates the excessive force, and deprivations of liberty without due process of law by Police Officers.

34. At all times pertinent hereto, Police Officer John P. Sylvestre and Police Officers John Does 1-3, were acting within the scope of their employment and pursuant to the aforementioned policies and practices of the City of New York. These policies and practices which were enforced by Defendant City of New York were the moving force, proximate cause, and/or the affirmative link behind the conduct causing the plaintiff's injuries.

35. The City of New York is therefore liable for the violations of Plaintiff's constitutional rights by Police Officer John P. Sylvestre and Police Officers John Does 1-3.

36. That by virtue of the foregoing, Plaintiff has been damaged in the amount of FIFTY MILLION [$50,000,000.00] DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT CITY OF NEW YORK, PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-22" AND FURTHER ALLEGES AS FOLLOWS:

37. That the employees of the defendant as aforesaid jointly and severally assaulted and battered the plaintiff causing him to sustain severe personal injuries.

38. That by virtue of the foregoing, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT CITY OF NEW YORK, PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-22" AND FURTHER ALLEGES AS FOLLOWS:

39. New York City owed a duty to Plaintiff to hire, train and supervise and otherwise control its Police Officers in the proper methods of use of force incidental to this matter, and in the course of their Policing functions. New York City failed to properly hire, provide adequate training, provide proper supervision and control for the Police Officers involved herein, and said failure constitutes negligence.

40. As a proximate result of the City of New York's negligence to provide adequate training, supervision and control of the Police Officers involved herein, Plaintiff has sustained personal injuries.

41. That by virtue of the foregoing, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands Judgment as follows:

I. Judgment on the First Cause of Action against defendants Police Officer John P. Sylvestre and Police Officers John Does 1-3 in the amount of FIFTY MILLION ($50,000,000.00) DOLLARS;

II. Judgment on the Second Cause of Action against defendants Police Officer John P. Sylvestre and Police Officers John Does 1-3 in an amount which exceeds the jurisdictional limits of all New York State lower courts which would otherwise have jurisdiction;

III. Judgment on the First Cause of Action against the City of New York in the amount of FIFTY MILLION ($50,000,000.00) DOLLARS;

IV. Judgment on the Second Cause of Action against the City of New York in an amount which exceeds the jurisdictional limits of all New York State lower courts which would otherwise have jurisdiction;

V. Judgment on the Third Cause of Action against the City of New York in an amount which exceeds the jurisdictional limits of all New York State lower courts which would otherwise have jurisdiction;

VI. Judgment for Punitive Damages against defendants Police Officer John P. Sylvestre and Police Officers John Does 1-3 in the amount of FIFTY MILLION [$50,000,000.00] DOLLARS;

VII. Together with the costs and disbursements of this action, for reasonable attorney's fees under the applicable Federal Statutes, and for such other and further relief as to this Court seems just and proper.

DATED: February 18, 2015
New York, New York

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DEMAND FOR JURY TRIAL IS HEREBY MADE PURSUANT TO RULE 38 OF THE FEDERAL RULES OF CIVIL PROCEDURE

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